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OFFICE OF PETITIONS

In re Application of
Wack et al.
Application No. 09/142,452
Filed: January 19, 1999
Attorney Docket Number: 19866.PCT/FA

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed November 27, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is Granted.

This above-identified application became abandoned for failure to file a response to a non-final Office action mailed on June 15, 2004. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application was held abandoned on September 16, 2004. A Notice of Abandonment was mailed on February 8, 2005.

Petitioner contends a reply to the non-final Office action was received in the Office on December 13, 2004. Petitioner states that the reply in the form of an amendment and request for three month extension of time were submitted on December 13, 2004. The amendment also included a certificate of mailing dated December 7, 2004. Petitioner acknowledges that the reply submitted on December 13, 2004 contained a transposed

¹Petitioner has established via 37 CFR 1.10 the original petition was submitted on March 28, 2005. However, the petition has not been located.

application number. In support of the petition, petitioner has provided a post card receipt.

The reply has been located in the Office. The reply did contain the correct art unit, filing date, examiner's name, applicant and title of invention.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing application 09/142,542 rather than the correct application No. 09/142,452. The Office elects, in this instance, to treat applicants' listing of a transposed application number as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted December 13, 2004 has been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to the Art Unit 1746 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant

Petition Attorney

Office of Petitions